



OFFICE OF MANAGEMENT AND BUDGET

2 CFR Chapters I and II

**Reform of Federal Policies Relating to Grants and
Cooperative Agreements; Cost Principles and Administrative
Requirements (Including Single Audit Act)**

AGENCY: Executive Office of the President, Office of
Management and Budget (OMB)

ACTION: Advance Notice of Proposed Guidance.

SUMMARY: In his November 23, 2009, Executive Order 13520 on *Reducing Improper Payments* and his February 28, 2011, Presidential Memorandum on *Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments*, the President directed the Office of Management and Budget (OMB) to work with Executive Branch agencies; state, local, and tribal governments; and other key stakeholders to evaluate potential reforms to Federal grants policies. Consistent with the Administration's commitment to increasing the effectiveness and efficiency of Federal programs, the reform effort seeks to strengthen the oversight of Federal grant dollars by aligning existing

administrative requirements to better address ongoing and emerging risks to program outcomes and integrity. The reform effort further seeks to increase efficiency and effectiveness of grant programs by eliminating unnecessary and duplicative requirements. Through close and sustained collaboration with Federal and non-Federal partners, OMB has developed a series of reform ideas that would standardize information collections across agencies, adopt a risk-based model for Single Audits, and provide new administrative approaches for determining and monitoring the allocation of Federal funds.

DATES: To be assured of consideration, comments must be received by OMB at one of the addresses provided below, no later than 5 p.m. Eastern Standard Time (E.S.T) on [insert date 30 days after publication].

ADDRESSES: In submitting commenting, please refer to file "Grant Reform". You may submit comments using one of the following three alternatives (please choose only one of these three alternatives):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the instructions under the "more Search Options" tab.

2. *By express or overnight mail.* You may send written comments to the following address only: Office of Management and Budget, 725 17th St NW, Washington DC, 20025, Attention: Office of Federal Financial Management "Grant Reform".

3. *By regular mail.* You may mail written comments to the following address only: Office of Management and Budget, 725 17th St NW, Washington DC, 20500, Attention: Office of Federal Financial Management "Grant Reform". Due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, we strongly encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments sent via surface mail will be received before the comment closing date.

Comments will be most useful if they are presented in the same sequence (and with the same heading) as the section of this notice to which they apply. Also, if you are submitting comments on behalf of an organization, please identify the organization. Finally, the public comments received by OMB will be posted on OMB's website and at <http://www.regulations.gov> (follow the search instructions on that website to view public comments). Accordingly,

please do not include in your comments any confidential business information or information of a personal-privacy nature.

Copies of the OMB Circulars that are discussed in this notice are available on OMB's website at http://www.whitehouse.gov/omb/circulars_default/. The Cost Principles for Hospitals are in the regulations of the Department of Health and Human Services at 45 CFR part 75, Appendix E (*Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals*), at <http://www.gpo.gov/fdsys/pkg/CFR-2011-title45-vol1/pdf/CFR-2011-title45-vol1.pdf>.

FOR FURTHER INFORMATION CONTACT: Victoria Collin at (202) 395-7791 for general information.

SUPPLEMENTARY INFORMATION: This advance notice outlines the reform ideas for which OMB seeks public comment. These comments will assist OMB in its development in the coming months of a further Federal Register notice, to be published for comment later this year, which would propose specific revisions to existing requirements. These reform ideas relate to, and could result in proposed revisions to the following government-wide issuances: OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in 2 CFR

parts 220, 225, 215, and 230); Circulars A-89, A-102, and A-133; the guidance in Circular A-50 on Single Audit Act follow-up; and the Cost Principles for Hospitals at 45 CFR Part 74, Appendix E. As part of this ongoing review, OMB will consider the consolidation of currently-separate guidelines addressing related topics as well as the continued integration of guidelines into title 2 of the Code of Federal Regulations.

The reform ideas would be applicable to grants and cooperative agreements that involve state, local, and tribal governments as well as universities and nonprofit organizations. To the extent that current OMB circulars on cost principles cover all awards including contracts for these entities, reforms to cost principles will equally apply to all Federal awards including contracts, except for those contracts that are subject to "full coverage" under the Cost Accounting Standards (CAS) as defined at 48 CFR 9903.201. CAS-covered contracts will continue to be subject to the relevant requirements under the Federal Acquisition Regulation (FAR). Single Audit Act requirements will continue to apply to all Federal awards including contracts, though cost reimbursement contracts

may continue to be subject to additional audit requirements.

I. Objectives and Background

A. Objectives

As the President made clear in Executive Order 13563 of January 18, 2011, on *Improving Regulation and Regulatory Review* (76 Fed. Reg. 3821; January 21, 2011; <http://www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf>), each Federal agency must "tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations" and, to that end, it is important that Federal agencies identify those "rules that may be outmoded, ineffective, insufficient, or excessively burdensome," and "modify, streamline, expand, or repeal them in accordance with what has been learned." The President reinforced his commitment in Executive Order 13579 of July 11, 2011 on *Regulation and Independent Regulatory Agencies* (76 Fed. Reg. 41587; July 14, 2011; <http://www.gpo.gov/fdsys/pkg/FR-2011-07-14/pdf/2011-17953.pdf>).

As in other areas involving Federal requirements, the President is committed to eliminating requirements in the financial assistance arena that are unnecessary and reforming those requirements that are overly burdensome. As part of this commitment, the President believes that the Federal government has an obligation to eliminate roadblocks to effective performance in carrying out and completing grants and cooperative agreements. Essential to this reform effort is reducing "red tape" that is attached to the more than \$600 billion the Federal government spends annually in the form of grants and cooperative agreements. These awards provide important benefits and services to the public, and the awards go to state, local and tribal governments as well as to institutions of higher education and non-profit organizations. In order to ensure that the public receives the most value for the tax dollars spent, it is essential that these programs function as effectively and efficiently as possible, and that there be a high level of accountability to prevent waste, fraud, and abuse.

To this end, the President on February 28, 2011, issued his Memorandum on *Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments*,

(Daily Comp. Pres. Docs.;

<http://www.gpo.gov/fdsys/pkg/DCPD-201100123/pdf/DCPD-201100123.pdf>). In the Memorandum, the President

explained that "Federal program requirements over the past several decades have sometimes been onerous, and they have not always contributed to better outcomes. With input from our State, local, and tribal partners, we can, consistent with law, reduce unnecessary regulatory and administrative burdens and redirect resources to services that are essential to achieving better outcomes at lower cost." In addition to other actions, the President instructed the OMB Director to "[r]eview and where appropriate revise guidance concerning cost principles, burden minimizations, and audits for State, local, and tribal governments in order to eliminate, to the extent permitted by law, unnecessary, unduly burdensome, duplicative, or low-priority recordkeeping requirements and effectively tie such requirements to achievement of outcomes."

At the same time that the Federal Government must remove unnecessary and overly burdensome requirements that interfere with efficient and effective program performance, another Presidential priority is "intensifying efforts to eliminate payment error, waste, fraud, and abuse" in

Federal programs, as the President emphasized in Executive Order 13520 of November 20, 2009, on *Reducing Improper Payments* (74 Fed. Reg. 62201; November 25, 2009; <http://www.gpo.gov/fdsys/pkg/FR-2009-11-25/pdf/E9-28493.pdf>). Accordingly, as the President explained, it is important for Federal agencies "to more effectively tailor their methodologies for identifying and measuring improper payments to those programs, or components of programs, where improper payments are most likely to occur." Moreover, the elimination of unnecessary and overly burdensome requirements can advance the goal of strengthened program integrity, by enabling resources to be focused on those activities that are most effective at reducing payment errors and eliminating waste, fraud and abuse. Accordingly, in his February 2011 Memorandum on *Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments*, the President directed Federal agencies to "[w]ork with State, local, and tribal governments to identify the best opportunities to realize efficiency, promote program integrity, and improve program outcomes, including opportunities, consistent with law, that reduce or streamline duplicative paperwork, reporting, and regulatory burdens and those that more

effectively use Federal resources across multiple programs or States."

The reform ideas described below are being considered as approaches for pursuing these objectives.

The purpose of this notice is to solicit public input on a range of ideas for reforming the requirements that govern the management of Federal financial assistance awards. OMB is interested in receiving broad public feedback on these ideas. Based on the feedback that is received, as well as on the ongoing discussions among Federal agencies (including their Inspectors General) as well as with other stakeholders, OMB in the coming months will develop a set of proposed amendments that, later this year, will be published for public comment in the Federal Register. The public comments on that proposed set of revisions will in turn be considered as OMB develops a final notice that will adopt a set of reforms. Following the implementation of these reforms, OMB will continue to monitor their impacts to evaluate whether (and the extent to which) the reforms are achieving their desired results, and OMB will consider making further modifications as appropriate.

In addition, OMB is considering implementing these reforms through the development and issuance of an integrated set of guidelines that would be contained in one consolidated circular, in which current administrative requirements that currently vary by type-of-recipient would be streamlined into one set of common requirements, while at the same time some provisions that vary among different types of recipients would be retained. The goal of such a streamlining would be to increase the consistency, and decrease the complexity, in how the Federal Government's financial assistance programs are administered. Among other benefits, this will make it easier for applicants and recipients of Federal awards to understand and implement these requirements.

B. Background

The reform ideas outlined in this notice reflects input from a year of work by the Federal and non-Federal financial assistance community. In response to the President's direction that OMB and Federal agencies identify ways to make the oversight of Federal funds more effective and more efficient, OMB worked with the Office of Science and Technology Policy (OSTP) to convene meetings

with both Federal and non-Federal stakeholders to discuss possible ideas for reform efforts. These meetings resulted in OMB receiving a series reform ideas at the end of August 2011 that have since been further developed as described below. In addition, over 150 comments were received from the university and research community. These comments are publicly available at http://rbm.nih.gov/a21_task_force.htm.

On October 27, 2011, the OMB Director issued Memorandum M-12-01, *Creation of the Council on Financial Assistance Reform* (<http://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-01.pdf>). To "create a more streamlined and accountable structure to coordinate financial assistance," the Memorandum established the interagency Council on Financial Assistance Reform (COFAR) as a replacement for two Federal boards (the Grants Policy Council and the Grants Executive Board). The 10-member COFAR is composed of OMB's Office of Federal Financial Management (Co-Chair); the eight largest grant-making agencies, which are the Departments of Health and Human Services (a Co-Chair), Agriculture, Education, Energy, Homeland Security, Housing and Urban Development, Labor, and Transportation; and one

additional rotating member to represent the perspectives of other agencies, which for the first two-year term is the National Science Foundation.

Since the COFAR's first meeting on November 4, 2011, it has worked to formulate and further develop reform ideas for consideration to streamline and improve financial management policy for Federal assistance awards. These reform ideas are presented below, in Part II of this notice. In Part III, specific questions are posed regarding these reform ideas, for which comments are especially invited, along with other comments.

II. Reform Ideas for Comment

OMB invites comments from the public on all issues addressed in this advance notice. We invite those interested in responding to answer all of the questions posed or to choose to respond only to those questions of greatest interest to them. This feedback will assist us in fully considering issues and developing policies. In addition, the public is invited to suggest additional reform ideas for our consideration. Finally, we should note that, as this is an advance notice, the fact that OMB

is requesting public comment on a reform idea does not mean that OMB has concluded that the reform idea necessarily should be pursued. That is why public comment is being requested, so that OMB and Federal agencies (and other stakeholders) can have the benefit of the public's input, views and perspectives at this stage of the process, as we continue to evaluate these ideas for reform.

The reform ideas under discussion are outlined below in three main categories:

- Section A: reforms to audit requirements (Circulars A-133 and A-50)
- Section B: reforms to cost principles (Circulars A-21, A-87, and A-122, and the Cost Principles for Hospitals)
- Section C: reforms to administrative requirements (the government-wide Common Rule implementing Circular A-102; Circular A-110; and Circular A-89)

A. *Reforms to Audit Requirements (Circulars A-133 and A-50)*

This section discusses ideas for changes that would be made to the audit guidance that is contained in Circular A-133 on *Audits of States, Local Governments, and Non-Profit Organizations* and in Circular A-50 on *Audit Follow-up*. The following are ideas for reform that have been raised and discussed.

1. Concentrating audit resolution and oversight resources on higher dollar, higher risk awards.

Changing the Single Audit framework could enable agencies to focus their oversight and follow-up resources in the most efficient and effective way for targeting improper payments, waste, fraud, and abuse. The following oversight guidelines are an illustrative example of the form that a revised framework for the Single Audit requirement might take:

A. Entities that expend less than \$1 million in Federal awards would not be required to conduct a Single

Audit. This would be an increase in the current threshold of \$500,000, below which entities are currently not required to conduct Single Audits.

B. Entities that expend between \$1 million and \$3 million in Federal awards would be required to undergo a more focused version of the Single Audit, which would differ from current Single Audit requirements in that once a major program determination has been made, auditors would review only two compliance requirements for those programs. Allowable and unallowable costs would always be one of the required compliance requirements, and agencies would have the discretion to select the second compliance requirement for each of their programs as they deem most appropriate. OMB would provide guidance to agencies that this second compliance requirement should be the one that, for the particular program, would best target the risk of improper payments or waste, fraud, and abuse.

C. Entities that expend more than \$3 million in Federal awards would undergo a full Single Audit. These Audits would be strengthened per the ideas in

reforms 2-5 (below) to give agencies better tools to reduce improper payments and to eliminate waste, fraud, and abuse.

Raising the threshold for a Single Audit (from \$500,000 to \$1 million) would reduce the administrative burden for audited entities and for auditing agencies, allowing the agencies to concentrate their audit oversight and follow-up resources more closely on other entities that are higher-dollar and higher-risk. Focusing the Single Audit requirement (for entities expending between \$1 million and \$3 million) to two compliance requirements would enable agencies to tighten their scrutiny on the highest risk areas of program oversight while at the same time reducing the burden - for both agencies and recipients - associated with collecting and resolving audit findings in lower risk areas. This would narrow the scope of compliance-related information that agencies receive for entities expending below \$3 million. Finally, maintaining the full Single Audit for entities expending more than \$3 million would ensure that agencies still receive full Single Audit compliance information for higher dollar recipients, and that they will be able to shift more resources to provide the necessary level of oversight to those recipients.

2. Streamlining the universal compliance requirements in the Circular A-133 Compliance Supplement.

For all entities that undergo a full Single Audit, the universal compliance requirements listed in the Circular A-133 Compliance Supplement could be streamlined to focus on proper stewardship of Federal funds.

This could be done, for example, by emphasizing - in the universal compliance requirements - those elements that address improper payments, waste, fraud, abuse, and program performance, while streamlining other elements. Under this approach, a subset of compliance requirements would be targeted for increased testing, larger sample sizes, or lower levels of materiality. Examples of these could include: allowable or unallowable activities and costs, eligibility, reporting, selection of subrecipients and subrecipient monitoring, special tests and provisions, period of availability of Federal funds, and compliance of procurement with suspension and debarment policies. At the same time, other compliance requirements could either be made optional for testing (depending on the material effect of that requirement on the program) or could have smaller sample sizes and higher levels of materiality. In addition, Federal agencies would have the ability, on a

program-specific basis to place higher emphasis through the Compliance Supplement process on those elements (no longer universal) which the agency believes are relevant to prevent waste, fraud, or abuse.

Refocusing the Single Audit Compliance Supplement to reduce the number of types of compliance requirements tested would both reduce the audit burden on recipients and provide agencies with more risk-based audits. This refocusing of the Single Audit is intended to allow agencies to concentrate their audit resolution and oversight resources on the requirements most essential to managing waste, fraud, and abuse and reducing improper payments. This could result in a more focused audit that produces the findings needed to ensure accountability, while relieving the burden of audit work on issues that are secondary to the integrity of funds. Agencies could add back specific requirements under program specific tests and provisions where necessary. This would limit the types of compliance information that Federal agencies routinely receive from the Single Audit process.

3. Strengthening the guidance on audit follow-up for Federal awarding agencies.

This reform approach could include changes along the following lines:

- requiring agencies to designate a senior accountable agency official to oversee the audit resolution process;
- requiring agencies to implement audit-risk metrics including timeliness of report submission, number of audits that did not have an unqualified auditor opinion on major programs, and number of repeat audit findings;
- encouraging agencies to engage in cooperative audit resolution with recipients; and
- encouraging agencies to take a pro-active approach to resolving weaknesses and deficiencies, whether they are identified with single specific programs or cut across the systems of an audited recipient.

To improve audit follow-up, the Federal Government would digitize Single Audit reports into a searchable database to support analysis of audit results by Federal agencies and pass-through entities.

Strengthening audit resolution policies should result in agencies taking a more pro-active and collaborative approach towards following- up on audit findings, which should result in a decrease in audit findings and program risk over time. This collaborative approach would be envisioned more as a mediation process between agencies and recipients, with informal assistance as needed, rather than a more formal provision of training or technical assistance. As underlying programmatic weaknesses are resolved and repeat findings reduced, both recipients' and agencies' audit burdens will be lessened. This may require more resources from Federal agencies as they work to strike the right balance on pro-active oversight. A web-based searchable database of Single Audit findings will provide a key tool to improve the utility of audits.

4. Reducing burden on pass-through entities and subrecipients by ensuring across-agency coordination.

In order to reduce redundancy and burden, this reform idea would involve making more explicit the existing requirement that Federal awarding agencies are responsible for coordinating additional audits of a recipient entity with the Federal cognizant or oversight agency for audit for

that entity. This would in no way impact the ability of Inspectors General to conduct audit work as deemed necessary in accordance with the Inspector General Act of 1978, as amended.

Ensuring that audits are coordinated across Federal agencies, and that agencies conduct audit follow-up for internal-control issues at those subrecipients which receive the majority of their Federal funds through direct Federal assistance, would reduce the number of subrecipients for which pass-through entities engage in follow-up efforts that could duplicate the Federal efforts.

5. Reducing burdens on pass-through entities and subrecipients from audit follow-up.

For those situations in which an entity receives a majority of its Federal funds through direct grants from the Federal government, and some Federal funds through subawards, the reform idea would be to require Federal agencies to conduct audit follow-up of the subawards for those audit findings regarding financial or internal control systems that are not specific to the program delivery of the subawards.

Such a change to Circular A-133 would be aimed at eliminating duplicative audit follow-up work performed by a

pass-through entity without providing significant additional work to Federal agencies that already will be following-up on these same audit findings, as well as at simplifying the follow-up for the subrecipient. Pass-through entities that give subawards would no longer be required to resolve financial and internal control issues but could instead focus on the programmatic requirements of the subawards they make. Subrecipients would not be required to negotiate with both the Federal government and the pass-through entity over the same financial and control issues that affect both types of awards. However, once the Federal government has resolved the financial and control issues with the subrecipient, a pass-through entity that awarded a subaward would be responsible for audit follow-up monitoring of these general findings to ensure that the subrecipient complies with the audit resolution as it applies to the subgrants made by the primary grantee. The subrecipient's Federal awarding agency would perform a normal audit follow-up for the financial and control issues, issuing management decisions on these audit findings, and provide a process to make these management decisions and a Federal contact person readily available to the affected pass-through entities.

B. Reforms to Cost Principles (Circulars A-21, A-87, and A-122, and the Cost Principles for Hospitals)

This section discusses ideas for changes that would be made to the OMB cost-principle circulars that have been placed at 2 CFR Parts 220, 225, and 215 (Circulars A-21, *Cost Principles for Educational Institutions*; Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*; and Circular A-122, *Cost Principles for Non-Profit Organizations*), and to the Cost Principles for Hospitals that are in the regulations of the Department of Health and Human Services at 45 CFR Part 75, Appendix E (*Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals*). The following are ideas for reform that have been raised and discussed.

1. Consolidating the cost principles into a single document, with limited variations by type of entity.
2. For indirect ("facilities and administrative") costs, using flat rates instead of negotiated rates.

- One option would be to establish a mandatory flat rate that is discounted from the recipient's already negotiated rate. This approach could significantly reduce the burden associated with indirect cost rate calculation and negotiation, as well as reduce overall indirect costs.
- Another option would give recipients the option of accepting a flat rate or negotiating a rate. Recipients with a previously negotiated rate may have the additional option of accepting a discounted rate from their already negotiated rate. Recipients with a previously negotiated rate may have the additional option of accepting a discounted rate from their already negotiated rate. Discounted rates could be maintained for up to a four-year period with minimal documentation, or raised through negotiation with full documentation.

Under both options, OMB would work with cognizant federal agencies and the HHS Division of Cost Allocation to develop a list of flat rates and discount factors by entity type. The aim of such approaches would be to reduce negotiation costs for agencies while reducing – for agencies,

recipients, and subrecipients - the administrative burden associated with rate preparation and negotiations.

Entities with CAS-covered contracts would still be required to use a negotiated rate for those contracts.

Establishing either a mandatory or optional flat indirect cost rate could reduce administrative burdens on recipients associated with documenting, justifying, negotiating, and maintaining support for a negotiated rate. This burden can be substantial depending on the extent to which an entity analyzes, documents, and negotiates a rate or group of rates. By setting the flat rate at a lower level than the negotiated rate would have been, this approach could also reduce indirect-costs expenses incurred by Federal agencies. OMB would continue to work with stakeholders to address potential challenges to implementation, including finding the right algorithms for setting the rates and reducing overall indirect costs.

One consideration here is the issue of whether Federal agencies would actually end up incurring additional indirect costs if each grantee had the option of choosing to use a flat rate or a negotiated rate. The concern here is that, through their choices, grantees would apply those

rates that would result in the highest indirect cost reimbursement, with these increases in indirect costs thereby resulting in less funding being available for direct programmatic activities. OMB is seeking input on how to structure a reform approach in a way that would ensure a reduction in overall indirect costs.

3. Exploring alternatives to time-and-effort reporting requirements for salaries and wages.

This reform idea would involve working with the Federal grant and Inspector General (IG) communities to identify risks associated with justifications for salaries and wages and to identify possible alternative mechanisms for addressing those risks beyond current time-and-effort reporting requirements.

This would include consideration of the ideas described in existing pilots or development of new pilots to accountably document the allowability and allocability of salaries and wages charged to Federal awards as direct costs. The first three pilots under consideration are those of the Federal Demonstration Partnership

(http://sites.nationalacademies.org/PGA/fdp/PGA_055834);

the Department of Labor's Workforce Innovation Fund

(http://www.doleta.gov/grants/find_grants.cfm); and the Department of Education's Request for Ideas (<http://www.ed.gov/blog/2011/10/granting-administrative-flexibility-for-better-measures-of-success/>).

Considering and developing pilot programs that provide alternatives to time-and-effort reporting could result in substantial reductions of the administrative burden currently associated with compliance, while enhancing compliance and stewardship. OMB will work with IGs and other stakeholders to ensure that any alternative provides appropriate levels of auditable and accountable information.

4. Expanding application of the Utility Cost Adjustment for research to more higher education institutions.

This reform idea would expand application of the 1.3% indirect (facilities and administration) costs adjustment for utility costs of research to more institutions of higher education.

The Utility Cost Adjustment (UCA) is currently provided to 65 institutions of higher education for research grants. Under this proposal, the UCA would be extended to other institutions that submit to their cognizant Federal agency

a utility cost study justifying an increase in utility cost reimbursement and an approved plan to reduce their utility costs over time. OMB would work with Department of Defense's Office of Naval Research and the Department of Health and Human Services' Division of Cost Allocation to develop guidelines and a format for the cost studies to ensure standardization across entities.

Extending the opportunity to apply for the UCA to more institutions of higher education for research is aimed at resolving the equitable treatment concern that has been raised by those academic institutions that have not been offered this opportunity since the UCA became available to some institutions in 1998. This revision would address that concern while still ensuring cost accountability and reduced utility consumption by requiring a utility cost study (to be developed by OMB in coordination with DOD's Office of Naval Research and HHS' Division of Cost Allocation) as well as a plan to reduce utility costs in order for the adjustment to be approved. If all remaining institutions apply for and receive this adjustment, this revision could raise Federal indirect cost reimbursements for utility costs by up to approximately \$80 million per year once fully implemented.

5. Charging directly allocable administrative support as a direct cost.

This reform idea would involve clarifying the circumstances under which institutions of higher education, and other entities where appropriate, may charge directly allocable administrative support as a direct cost. Included are project-specific activities such as managing substances/chemicals, data and image management, complex project management, and security.

This clarification would be aimed at ensuring that charges are appropriately classified in order to provide support for all of the costs directly associated with a Federal award, while reducing the burdens of securing special permission to purchase what have become routine supplies. This is not intended to result in a net cost increase, but rather to provide clarity in how allowable costs are routinely charged.

6. Including the cost of certain computing devices as allowable direct cost supplies.

This reform idea would involve explicitly including the cost of computing devices not otherwise subject to inventory controls (i.e. cost less than the organization's

equipment threshold) as allowable direct cost supplies. Applicants for Federal awards would be required to document these items as a separate line-item in their budget requests, but would not be required to conduct the more stringent inventory controls in place for equipment.

This clarification would be aimed at ensuring that charges are appropriately classified in order to provide support for all of the costs directly associated with a Federal award, while reducing the burdens of securing special permission to purchase what have become routine supplies. This is not intended to result in a net cost increase, but rather to provide clarity in how allowable costs are routinely charged.

7. Clarifying the threshold for an allowable maximum residual inventory of unused supplies.

This reform idea would involve harmonizing cost principles with existing language in Circulars A-110 and A-102 to clarify that \$5,000 is the threshold for an allowable maximum residual inventory of unused supplies that may be retained for use on another Federal award at no cost, as long as the cost was properly allocable to the original agreement at the time of purchase.

This clarification would be aimed at minimizing confusion about appropriate disposal or re-expensing of unused inventories at the conclusion of an award and at ensuring consistency in the application of the cost principles in the circulars.

8. Eliminating requirements to conduct studies of cost reasonableness for large research facilities.

This reform idea would involve eliminating requirements for institutions of higher education, and other entities where appropriate, to conduct studies of cost reasonableness for large research facilities. This would be aimed at reducing paperwork that is costly to generate and may yield information that is of minimal use to the awarding agency.

9. Eliminating restrictions on use of indirect costs recovered for depreciation or use allowances.

This reform idea would involve eliminating the restrictions on the use of the portion of indirect cost recoveries associated with depreciation or use allowances. This would be aimed at reducing paperwork that is costly to generate and may yield information that is of minimal use to the awarding agency.

10. Eliminating requirements to conduct a lease-purchase analysis for interest costs and to provide notice before relocating federally sponsored activities from a debt-financed facility.

This reform idea would involve eliminating requirements for institutions of higher education, and other entities where appropriate, to conduct a lease-purchase analysis to justify interest costs, and to notify the cognizant Federal agency prior to relocating federally sponsored activities from a facility financed by debt. This would be aimed at reducing paperwork that is costly to generate and may yield information that is of minimal use to the awarding agency.

11. Eliminate requirements that printed "help-wanted" advertising comply with particular specifications.

This reform idea would update the cost principles to reflect the media now used for those notices.

12. Allowing for the budgeting for contingency funds for certain awards.

This reform idea would involve clarifying that budgeting for contingency funds associated with a Federal award for the construction or upgrade of a large facility or instrument, or for IT systems, is an acceptable and

necessary practice; that the method by which contingency funds are managed and monitored is at the discretion of the Federal funding agency. Contingency related amounts should not be included in recipient proposed budgets for specific awards or in the actual award documents; risk-adjusted total cost estimates should be based on verifiable supporting data consistent in compliance with Generally Accepted Accounting Principles (GAAP) and with standard project-management practices. Rebudgeting out of these funds would not be allowable.

Allowing recipients to budget for contingency funds is aimed at clarifying and harmonizing the rules on what is deemed standard project management practice and to encourage development of shared IT services. There could be some cost implications to projects if and when the contingency funds become necessary spending.

13. Requesting that the Cost Accounting Standards Board (CASB) consider increasing the minimum threshold for disclosure statements.

This reform idea would involve OMB requesting that the Cost Accounting Standards board consider the following -

- increasing the minimum threshold for institutions of higher education to file a disclosure statement of cost-accounting standards from \$25 million to \$50 million in Federal awards per year based on the average of the entity's most recent three years;
- establish that the requirement no longer applies if an entity drops below that threshold and is not required to file under current Cost Accounting Standards Board (CASB) requirements described at 48 CFR 9903.202-1; and
- remove exhibit A of Circular A-21 from future guidance.

OMB would also request that the CASB reassess its rule to increase the \$25 million procurement contract threshold for institutions of higher education to conform to the \$50 million threshold for other types of entities. OMB would also link the requirement to future adjustments to the CASB rule.

14. Allowing for excess or idle capacity for certain facilities, in anticipation of usage increases.

This reform idea would allow for excess or idle capacity in consolidated data centers, telecommunications, and public safety facilities. In order to consolidate data centers and operate in a cloud-based environment, data centers require excess capacity at their creation in order to accommodate increases in usage later on. Other telecommunications facilities and public safety projects have similar characteristics. Federal sharing of these costs would be contingent on the grantee providing a multi-year plan for reaching full capacity of the data center. The OMB cost principles currently do not address the excess or idle capacity in consolidated data centers.

15. Allowing costs for efforts to collect improper payment recoveries.

This reform idea would involve revising OMB guidelines to allow costs for expenses associated with the effort to collect improper payment recoveries or related activities, if such costs are specifically approved or directed by the awarding agency.

This change would be aimed at meeting the President's directive to improve the Federal government's ability to recover improper payments. While this could result in increased upfront costs to the agencies, the intention here

is that awarding agencies would approve these costs only when the anticipated amount of recovered funding more than justifies the expense of collection.

16. Specifying that gains and/or losses due to speculative financing arrangements are unallowable.

This reform idea would involve specifying that gains and/or losses, related to debt arrangements on capital assets, due to speculative financing arrangements (such as hedges, derivatives, etc.) are unallowable. Due to the volatile nature of such instruments, all derivative and hedging instruments would be unallowable, including derivative and hedging instruments embedded in other contracts, whether used for risk management purposes, forecasting, calculations used for the preparation of proposals for federal funding (e.g., forecasting contingencies) or otherwise, and regardless of whether related to assets, liabilities, or expenses.

This change would be aimed at updating the cost principles to address all types of debt arrangements.

17. Providing non-profit organizations an example of the Certificate of Indirect Costs.

This reform idea would involve providing non-profit organizations an example of the required certification (Certificate of Indirect Costs) similar to the information that is already provided for state, local, and tribal governments. This would be aimed at providing uniformity in documentation requirements across different types of entities.

18. Providing non-profit organizations with an example of indirect cost proposal documentation requirements.

This reform idea would involve providing, for non-profit organizations, an example of indirect cost proposal documentation requirements that are similar to the information provided for state, local, and tribal governments. This would be aimed at providing uniformity in documentation requirements across different types of entities.

C. Reforms to Administrative Requirements (the Common Rule implementing Circular A-102; Circular A-110; and Circular A-89)

This section discusses ideas for changes that would replace the government-wide common rule implementing Circular A-102 on *Grants and Cooperative Agreements with State and Local*

Governments and that would revise Circular A-110 on *Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations* (2 CFR part 215) and Circular A-89 on *Catalog of Federal Domestic Assistance*. The following are ideas for reform that have been raised and discussed

1. Creating a consolidated, uniform set of administrative requirements.

This reform idea would involve consolidating the administrative requirements in OMB Circulars A-102 and A-110 into a uniform set of administrative requirements for all grant recipients. This uniform guidance would continue to include limited exceptions by type of recipient.

2. Requiring pre-award consideration of each proposal's merit and each applicant's financial risk.

This reform idea would involve requiring agency consideration of the merit of each proposal and the financial risk associated with each applicant prior to making an award. (Many agencies currently award grants based on merit review under current law and policy. The proposed change would be a reform in the sense that such merit-based review would be required for the first time in

an OMB circular.) Indicators of risk would include past financial, internal control, and programmatic performance. The outcome of the review should affect award decisions, and risk assessment may also affect terms and conditions. This would formalize a "best practice" that is already conducted by many agencies, and agencies will continue to have the discretion to determine the format of the review. This reform would not apply to formula grants.

This change would be aimed at ensuring greater transparency in the award making process as well as higher quality of awarded projects, and at delivering improved results with less risk of waste, fraud, or abuse during implementation.

In evaluating risks, agencies would be required to consider factors that could include: financial stability; quality of management and internal control systems and the ability to meet the management standards prescribed in the amended guidance; history of performance; Federal award Single Audit reports and findings for previous awards; and any other factors that may affect the applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on recipients. Merit reviews may be implemented according to the individual practices of each agency. This reform would include explicit authority for

agencies to modify award decisions as well as the terms and conditions of any award based on the findings of a risk review.

Articulating the requirement for this review in an OMB circular could ensure greater transparency in the award making process and higher quality of awarded projects.

There may be some additional burden for agencies that do not currently conduct such reviews to incorporate them into their processes, and could also result in additional information collections from recipients.

3. Requiring agencies to provide 90-day notice of funding opportunities.

This reform idea would involve requiring Federal agencies to provide 90-day advance forecast of funding opportunities in an updated Catalog of Federal Financial Assistance (CFFA) that will replace the existing Catalog of Federal Domestic Assistance (CFDA). This would not affect the requirement to post actual notices of funding opportunities on Grants.gov.

This change would be aimed at providing applicants with additional time and information with which to prepare financial assistance applications, thereby improving the

relevance and quality of proposals submitted to Federal agency programs. Exceptions to the 90-day notice requirement would include statutory obligations or exigent circumstances that dictate a shorter timeframe. The new enhanced CFFA will include both domestic and international funding priorities for grants, loans, insurance, and other types of financial assistance, including information about projected amounts of available funds and a summary of general eligibility requirements. These notices of intended priorities may change based on modifications to funding cycles and/or statutory authorities.

4. Providing a standard format for announcements of funding opportunities.

This reform idea would incorporate into circulars the existing requirement for certain categories of information to be published in announcements of public funding opportunities. See OMB Memorandum M-04-01 of October 15, 2003 (http://www.whitehouse.gov/omb/memoranda_fy04_m04-01), which announced the Federal Register notice that OMB published at 68 Fed. Reg. 58146 (October 8, 2003).

Among other information, the opportunity announcement must include specific eligibility or qualification information and a clear description of all criteria used in agency

review of applications for the grant opportunity. Further, agencies must disclose all terms and conditions that may be attached to the funded awards and general information regarding post-award reporting requirements, except for award specific terms and conditions determined during the pre-award process. Providing this level of transparency at the solicitation stage assists applicants in determining not only whether they are eligible and/or qualified for an award, but also the scope of recipient responsibilities associated with an award.

5. Reiterating that information collections are subject to Paperwork Reduction Act approval.

This reform idea would involve reiterating that information collection requests are limited to standardized data elements approved by OMB, as required under the Paperwork Reduction Act of 1995 (PRA), plus OMB-approved exceptions for all applications and reports.

Continued efforts at data standardization are intended to improve governmentwide program management; enhance transparency in Federal awards; and streamline and reduce the reporting burden, including the time necessary to comply with application and reporting requirements. For both applications and post-award reporting, there are

current requirements that agencies use standard OMB-approved governmentwide information collections, with deviations approved by OMB on a limited basis. Continued data standardization will also support OMB and Federal agency efforts to develop a comprehensive, end-to-end grants reporting system that allows applicants and recipients to apply for and report on all Federal grants at one location. Approved collections would be designed to include necessary information for program measurement and monitoring. This reform would in some cases limit Federal agencies' ability to require unique information collections for particular program, except where required by statute.

III. Questions for Comment

The list below includes the questions about these reform ideas that address issues which are of greatest interest to OMB at this stage of the process. Comments addressing any other concerns, and other types of feedback, are also welcome.

In addition, as was explained at the beginning of this notice, the public comments received by OMB will be posted on OMB's website and at <http://www.regulations.gov>.

Accordingly, please do not include in your comments any

confidential business information or information of a personal-privacy nature.

A. Overarching Questions

1. Which of these reform ideas would result in reduced or increased administrative burden to you or your organization?
2. Which of these reform ideas would be the most or least valuable to you or your organization?
3. Are there any of these reform ideas that you would prefer that OMB not implement?
4. Are there any reform ideas, beyond those included in this notice, that OMB should consider as a way to relieve administrative burden?

B. Single Audits

1. In general terms, how important are Single Audits to your entity or to entities you audit for subrecipient monitoring?

2. In general terms, what impacts would the following changes to the Single Audit framework have on your organization in administrative burden and in ability to provide oversight to subrecipients?
 - a. Increasing the Single Audit threshold to \$1 million?
 - b. Requiring a more focused Single Audit (with only two compliance requirements) for any entity expending between \$1 million and \$3 million?
 - c. Requiring full Single Audits for any entity expending more than \$3 million?
3. Should the Single Audit threshold(s) be increased, and if so, to what extent?
4. Which types of currently universal Single Audit compliance requirements do you think are most essential to identifying and mitigating waste, fraud, and abuse?
5. What processes or tools should the Federal Government implement in order to ensure better coordination in the

Single Audit oversight by Federal agencies and pass-through agencies, including in the resolution of audit findings that cut across multiple agencies' programs?

C. Cost Principles

1. On indirect cost rates:

a. Would administrative burden be reduced by having an indirect cost rate in place for 4 years?

b. Are there any existing Federal or state level statutory/regulatory/agency requirements that would prohibit recipients from using a "flat" indirect cost rate if it were proposed?

2. What are your views on the following types of indirect cost rates?

a. A flat rate

b. Longer term for negotiated rates to be in effect

c. A flat rate that would be a fixed percentage of the organization's already existing negotiated rate

3. In general terms, what would be the cost implications of implementing each of the following reforms, and/or of all of them together?

a. The proposed clarifications to allowable charges of directly allocable administrative support as a direct cost. As currently envisioned, reforms would clarify that project-specific activities such as managing substances/chemicals, data and image management, and security are allowable.

b. Allowing costs associated with recovery of improper payments.

c. Allowing excess capacity for telecommunications and public safety projects?

4. Would you be potentially interested in participating in a piloted alternative for time-and-effort reporting? Is

there a permanent change to time-and-effort requirements that you recommend OMB consider?

5. If your organization is an educational institution that does not currently receive the Utility Cost Adjustment (UCA), what are the general factors that your organization would likely consider in deciding whether to conduct a cost study, and complete a plan to reduce utility costs, in order to justify receiving the UCA?

6. For organizations with CAS-covered contracts, are there differences between what is envisioned here and the standards for CAS-covered contracts in the FAR that you believe could be challenging to address?

D. Administrative Requirements

1. What areas of past performance should be considered as part of a Federal agency assessment of recipient risk (e.g., fulfillment of statutory matching requirements, record of sound financial management practices with no significant or material findings or weaknesses, ability to meet established deadlines)?

2. What specific standards should be considered in Federal agencies' evaluation of merit prior to making Federal awards?
 - a. How should these be applied?
 - b. What elements and what source materials should be looked at?
3. With respect to the existing government-wide standard information collection requests (ICRs) for grant applications and grant reporting --
 - a. Do these ICRs provide necessary information to enable Federal agencies to review grant applications or to monitor the progress of grant awardees?
 - b. Are these ICRs unnecessarily burdensome and, if so, in what way(s)?
4. Should there be sets of standard data elements based on the type of assistance being provided (e.g. research, construction, social services, scholarships or aid program awards, etc.)?

5. Are there any system issues and associated costs that may arise as a result of implementing the new pre-award and post award requirements? In general, what is the rough order of relative magnitude of these costs?

Daniel I. Werfel, Controller

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